

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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CORDIA FOSTER and CISLYN WRIGHT,

Index No. 21-cv-11224

*Plaintiffs,*

-against-

**DEFENDANTS' DRAFT  
VERDICT FORMS**

ELYSE DULA a/k/a ELYSE SNOW,  
and IAN K. SNOW,

*Defendants.*

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**DEFENDANTS' DRAFT VERDICT FORMS**

I have prepared verdict forms for you to use in recording your decisions. On the forms, there are spaces to indicate your verdict on each of the Plaintiffs' claims against the Defendants. Remember, each verdict must be unanimous and must reflect the conscientious judgment of each juror. You should return a verdict on each claim.<sup>1</sup>

**A. First Cause of Action: Race and Color Discrimination and  
Harassment in Violation of 42 U.S.C. § 1981**

a. Were the Plaintiffs a member of a class protected by Section 1981?

Yes \_\_\_\_ No \_\_\_\_

If your answer to this question is "No," proceed no further and report to the Court. If your answer is "Yes", proceed to the next question.

b. Did one or both of the Defendants intentionally discriminate against the Plaintiffs on the basis of race or citizenship and were such discriminatory actions "pervasive" in nature?

\_\_\_\_\_  
<sup>1</sup> FJI 78-7 – General Verdict Form.

Yes \_\_\_\_ No \_\_\_\_

If your answer to this question is “No,” proceed no further and report to the Court. If your answer is “Yes”, proceed to the next question. If you find that one of the Defendants did not intentionally discriminate against either Plaintiff on the basis of race or citizenship or that such discriminatory actions were not pervasive, then you should proceed no further against that Defendant.

- c. Did the discrimination interfere with a protected activity as defined in Section 1981?

Yes \_\_\_\_ No \_\_\_\_

If your answer to this question is “No,” proceed no further and report to the Court. If your answer is “Yes”, proceed to the next question.

- d. State the amount of damages, if any, you award to the Plaintiffs.

Amount \$ \_\_\_\_\_

If you decide not to make an award, you will insert the word “none”.

- e. Are the Plaintiffs entitled to punitive damages against the Defendants?

Yes \_\_\_\_ No \_\_\_\_

If your answer to this question is “No,” proceed no further and report to the Court. If your answer is “Yes”, proceed to the next question.

- f. State the amount of punitive damages, if any, you award to the Plaintiffs.

Amount \$ \_\_\_\_\_<sup>2</sup>

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<sup>2</sup> Derived from NY PJI Special Verdict Form PJI 9:5 SV.

**B. Second Cause of Action: Race and Color Discrimination and Harassment in Violation of NYSHRL**

- a. Did an employer-employee relationship exist between the Defendants and the Plaintiffs?

Yes \_\_\_\_ No \_\_\_\_

If your answer to this question is “No,” proceed no further and report to the Court. If your answer is “Yes”, proceed to the next question.

- b. Did the Defendants believe the Plaintiffs to be African-American and/or Jamaican?

Yes \_\_\_\_ No \_\_\_\_

If your answer to this question is “No,” proceed no further and report to the Court. If your answer is “Yes”, proceed to the next question.

- c. Did racial discrimination by Defendants of the Plaintiffs actually occur?

Yes \_\_\_\_ No \_\_\_\_

If your answer to this question is “No,” proceed no further and report to the Court. If your answer is “Yes”, proceed to the next question. If you find that one of the Defendants did not racially discriminate against either Plaintiff, then you should proceed no further against that Defendant.

- d. Did the racial discrimination of the Plaintiffs rise above the level of what a reasonable victim of discrimination with the same protected characteristics would consider petty slights or trivial inconveniences

Yes \_\_\_\_ No \_\_\_\_

If your answer to this question is “No,” proceed no further and report to the Court. If your answer is “Yes”, proceed to the next question.

- e. Were the Plaintiffs subjected to the conduct because the Defendants believed them to

be African-American and/or Jamaican?

Yes \_\_\_\_ No \_\_\_\_

If your answer to this question is “No,” proceed no further and report to the Court. If your answer is “Yes”, proceed to the next question.

- f. Did the Plaintiffs actually consider their work environment to be hostile because of the Defendants’ conduct?

Yes \_\_\_\_ No \_\_\_\_

If your answer to this question is “No,” proceed no further and report to the Court. If your answer is “Yes”, proceed to the next question.

- g. Were the Plaintiffs harmed because of the Defendants’ conduct?

Yes \_\_\_\_ No \_\_\_\_

If your answer to this question is “No,” proceed no further and report to the Court. If your answer is “Yes”, proceed to the next question.

- h. State the amount of damages, if any, you award to the Plaintiffs.

Amount \$ \_\_\_\_\_

If you decide not to make an award, you will insert the word “none”.

- i. Are the Plaintiffs entitled to punitive damages against the Defendants?

Yes \_\_\_\_ No \_\_\_\_

If your answer to this question is “No,” proceed no further and report to the Court. If your answer is “Yes”, proceed to the next question.

- j. State the amount of punitive damages, if any, you award to the Plaintiffs.

Amount \$ \_\_\_\_\_<sup>3</sup>

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<sup>3</sup> Derived from NY PJI Special Verdict Form PJI 9:5 SV.

**C. Third Cause of Action: Retaliation and  
Retaliatory Harassment in Violation of 42 U.S.C. § 1981**

- a. Were the Plaintiffs employed by the Defendants?

Yes \_\_\_\_ No \_\_\_\_

If your answer to this question is “No,” proceed no further and report to the Court. If your answer is “Yes”, proceed to the next question.

- b. Did the Plaintiffs engage in a protected activity?

Yes \_\_\_\_ No \_\_\_\_

If your answer to this question is “No,” proceed no further and report to the Court. If your answer is “Yes”, proceed to the next question.

- c. Was the protected activity understood to relate to the conduct prohibited by the employment discrimination laws?

Yes \_\_\_\_ No \_\_\_\_

If your answer to this question is “No,” proceed no further and report to the Court. If your answer is “Yes”, proceed to the next question.

- d. Were the Defendants aware that the Plaintiffs had participated in the protected activity?

Yes \_\_\_\_ No \_\_\_\_

If your answer to this question is “No,” proceed no further and report to the Court. If your answer is “Yes”, proceed to the next question.

- e. Did the Plaintiffs suffer an adverse employment action by Defendants because of their engagement in the protected activity?

Yes \_\_\_\_ No \_\_\_\_

If your answer to this question is “No,” proceed no further and report to the Court. If your answer is “Yes”, proceed to the next question. If you find that one of the

Defendants did not participate in any such adverse employment action, then you should proceed no further against that Defendant.

- f. Was there a causal connection between the protected activity and the adverse action?

Yes \_\_\_\_ No \_\_\_\_

If your answer to this question is “No,” proceed no further and report to the Court. If your answer is “Yes”, proceed to the next question.

- g. State the amount of damages, if any, you award to the Plaintiffs.

Amount \$ \_\_\_\_\_

If you decide not to make an award, you will insert the word “none”.

- h. Are the Plaintiffs entitled to punitive damages against the Defendants?

Yes \_\_\_\_ No \_\_\_\_

If your answer to this question is “No,” proceed no further and report to the Court. If your answer is “Yes”, proceed to the next question.

- i. State the amount of punitive damages, if any, you award to the Plaintiffs.

Amount \$ \_\_\_\_\_<sup>4</sup>

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<sup>4</sup> Derived from NY PJI Special Verdict Form PJI 9:5 SV.

**Retaliatory Harassment in Violation of NYSHRL**

- j. Did an employer-employee relationship exist between the Defendants and the Plaintiffs?

Yes \_\_\_\_ No \_\_\_\_

If your answer to this question is “No,” proceed no further and report to the Court. If your answer is “Yes”, proceed to the next question.

- k. Did the Plaintiffs engage in a protected activity?

Yes \_\_\_\_ No \_\_\_\_

If your answer to this question is “No,” proceed no further and report to the Court. If your answer is “Yes,” proceed to the next question.

- l. Did the protected activity identify the Plaintiffs’ protected characteristic(s)?

Yes \_\_\_\_ No \_\_\_\_

If your answer to this question is “No,” proceed no further and report to the Court. If your answer is “Yes”, proceed to the next question.

- m. Were the Defendants aware that Plaintiffs had engaged in such protected activity?

Yes \_\_\_\_ No \_\_\_\_

If your answer to this question is “No,” proceed no further and report to the Court. If your answer is “Yes”, proceed to the next question.

- n. Did the Plaintiffs suffer an adverse employment action by Defendants because of their engagement in the protected activity?

Yes \_\_\_\_ No \_\_\_\_

If your answer to this question is “No,” proceed no further and report to the Court. If your answer is “Yes”, proceed to the next question. If you find that one of the

Defendants did not participate in any such adverse employment action, then you should proceed no further against that Defendant.

- o. Was there a causal connection between the protected activity and the adverse action?

Yes \_\_\_\_ No \_\_\_\_

If your answer to this question is “No,” proceed no further and report to the Court. If your answer is “Yes”, proceed to the next question.

- p. State the amount of damages, if any, you award to the Plaintiffs.

Amount \$ \_\_\_\_\_

If you decide not to make an award, you will insert the word “none”.

- q. Are the Plaintiffs entitled to punitive damages against the Defendants?

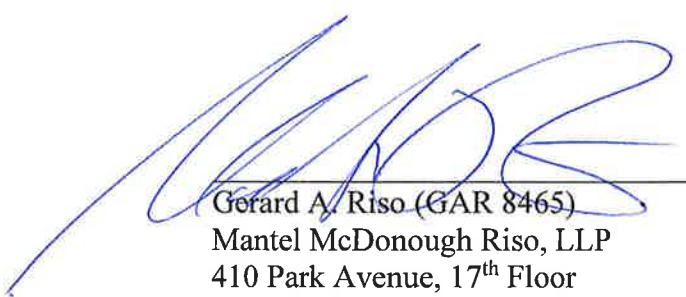
Yes \_\_\_\_ No \_\_\_\_

If your answer to this question is “No,” proceed no further and report to the Court. If your answer is “Yes”, proceed to the next question.

- r. State the amount of punitive damages, if any, you award to the Plaintiffs.

Amount \$ \_\_\_\_\_<sup>5</sup>

Dated: December 16, 2022  
New York, New York



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<sup>5</sup> Derived from NY PJI Special Verdict Form PJI 9:5 SV.